

**REPORT OF THE AUDIT OF THE
MARSHALL COUNTY
CLERK**

**For The Year Ended
December 31, 2009**



**CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS
www.auditor.ky.gov**

**209 ST. CLAIR STREET
FRANKFORT, KY 40601-1817
TELEPHONE (502) 564-5841
FACSIMILE (502) 564-2912**

EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE MARSHALL COUNTY CLERK

**For The Year Ended
December 31, 2009**

The Auditor of Public Accounts has completed the Marshall County Clerk's audit for the year ended December 31, 2009. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees decreased by \$80,661 from the prior year, resulting in excess fees of \$196,663 as of December 31, 2009. Revenues decreased by \$762,657 from the prior year and expenditures decreased by \$681,996.

Report Comment:

- The Marshall County Clerk Should Have A Written Collateral Security Agreement With Financial Institution To Protect Deposits

Deposits:

The County Clerk's deposits were insured and collateralized by bank securities or bonds. However, the county clerk did not have a written collateral security agreement with financial institution.

CONTENTS

PAGE

INDEPENDENT AUDITOR'S REPORT	1
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS	3
NOTES TO FINANCIAL STATEMENT	6
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS	11
COMMENT AND RECOMMENDATION	15



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Mike Miller, Marshall County Judge/Executive
The Honorable Dianne McKendree, Marshall County Clerk
Members of the Marshall County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Marshall County, Kentucky, for the year ended December 31, 2009. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2009, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated May 21, 2010 on our consideration of the Marshall County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Mike Miller, Marshall County Judge/Executive
The Honorable Dianne McKendree, Marshall County Clerk
Members of the Marshall County Fiscal Court

Based on the results of our audit, we have presented the accompanying comment and recommendation, included herein, which discusses the following report comment:

- The Marshall County Clerk Should Have A Written Collateral Security Agreement With Financial Institution To Protect Deposits

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Marshall County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

May 21, 2010

MARSHALL COUNTY
 DIANNE MCKENDREE, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2009

Revenues

State Fees For Services	\$	13,999
-------------------------	----	--------

Fiscal Court		3,385
--------------	--	-------

Licenses and Taxes:

Motor Vehicle-

Licenses and Transfers	\$ 1,227,897	
Usage Tax	2,942,165	
Tangible Personal Property Tax	2,734,237	

Other-

Fish and Game Licenses	3,718	
Marriage Licenses	7,383	
Transient Merchant Permit	335	
Deed Transfer Tax	75,151	
Delinquent Tax	403,466	
		7,394,352

Fees Collected for Services:

Recordings-

Deeds, Easements, and Contracts	32,480	
Real Estate Mortgages	64,261	
Chattel Mortgages and Financing Statements	72,984	
Powers of Attorney	1,735	
Affordable Housing Trust	43,320	
All Other Recordings	26,817	

Charges for Other Services-

Clerk Lien Fees	18,002	
Postage	3,621	
Copies	6,050	
Candidate Filing Fees	650	
		269,920

Other:

Return Check Fee	1,040	
Clunker Fee	78	
Miscellaneous	1,241	
		2,359

Interest Earned		1,562
-----------------	--	-------

Total Revenues		7,685,577
----------------	--	-----------

The accompanying notes are an integral part of this financial statement.

MARSHALL COUNTY
 DIANNE MCKENDREE, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2009
 (Continued)

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$ 872,140	
Usage Tax	2,852,815	
Tangible Personal Property Tax	995,796	

Licenses, Taxes, and Fees-

Fish and Game Licenses	3,572	
Affordable Housing Trust	43,092	
Legal Process Tax	29,523	
Delinquent Tax	64,680	\$ 4,861,618

Payments to Fiscal Court:

Tangible Personal Property Tax	263,259	
Delinquent Tax	26,835	
Deed Transfer Tax	71,243	361,337

Payments to Other Districts:

Tangible Personal Property Tax	1,365,772	
Delinquent Tax	192,484	1,558,256

Payments to Sheriff 32,323

Payments to County Attorney 54,791

Operating Expenditures and Capital Outlay:

Personnel Services-

Deputies' Salaries	420,512	
--------------------	---------	--

Contracted Services-

Advertising	2,901	
Printing and Binding	6,763	
Copier and Postage Machine	5,421	
Software Maintenance	18,368	

Materials and Supplies-

Office Supplies	26,113	
-----------------	--------	--

Other Charges-

Conventions and Travel	6,432	
Dues	2,640	
Postage	11,880	
Refunds	25,805	
Officials Bond	1,276	
Miscellaneous	180	
Voting Machine Storage	1,200	529,491

The accompanying notes are an integral part of this financial statement.

MARSHALL COUNTY
 DIANNE MCKENDREE, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2009
 (Continued)

Operating Expenditures and Capital Outlay: (Continued)

Capital Outlay-		
Office Equipment	\$ 9,882	
Total Expenditures		\$ 7,407,698
Net Revenues		277,879
Less: Statutory Maximum		76,734
Excess Fees		201,145
Less: Expense Allowance	3,600	
Training Incentive Benefit	882	4,482
Excess Fees Due County for 2009		196,663
Payment to Fiscal Court - February 24, 2010		196,663
Balance Due Fiscal Court at Completion of Audit		\$ 0

The accompanying notes are an integral part of this financial statement.

MARSHALL COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2009 services
- Reimbursements for 2009 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2009

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

MARSHALL COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 13.50 percent for the first six months and 16.16 percent for the last six months.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Marshall County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. These requirements were not met, as the County Clerk did not have a written agreement with the bank.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Marshall County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2009, all deposits were covered by FDIC insurance or adequate securities. However, the County Clerk did not have a properly executed collateral security agreement with financial institution.

THIS PAGE LEFT BLANK INTENTIONALLY

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Mike Miller, Marshall County Judge/Executive
The Honorable Dianne McKendree, Marshall County Clerk
Members of the Marshall County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Marshall County Clerk for the year ended December 31, 2009, and have issued our report thereon dated May 21, 2010. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Marshall County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Marshall County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Clerk's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the modified cash basis of accounting such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Marshall County Clerk's financial statement for the year ended December 31, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed the following noncompliance or other matters that is required to be reported under Government Auditing Standards.

- The Marshall County Clerk Should Have A Written Collateral Security Agreement With Financial Institution To Protect Deposits

The Marshall County Clerk's response to the finding identified in our audit is included in the accompanying comment and recommendation. We did not audit the County Clerk's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Marshall County Fiscal Court, and the Kentucky Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

May 21, 2010

COMMENT AND RECOMMENDATION

MARSHALL COUNTY
DIANNE MCKENDREE, COUNTY CLERK
COMMENT AND RECOMMENDATION

For The Year Ended December 31, 2009

STATE LAWS AND REGULATIONS:

The Marshall County Clerk Should Have A Written Collateral Security Agreement With Financial Institution To Protect Deposits

The Marshall County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). According to KRS 66.480(1)(d) and KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. As of March 31, 2009, the County Clerk had bank deposits of \$679,297; FDIC insurance of \$250,000; and collateral pledged or provided of \$844,846. Even though the County Clerk obtained sufficient collateral, there was no written agreement between the County Clerk and the depository institution, signed by both parties, securing the County Clerk's interest in the collateral. We recommend the county clerk enter into a written agreement with the depository institution to secure the County Clerk's interest in the collateral pledged or provided by the depository institution. According to federal law, 12 U.S.C.A. § 1823(e), this agreement, in order to be recognized as valid by the FDIC, should be (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

County Clerk's Response: "I have resolved this matter."

